

## REMARKS

In response to the Office Action dated September 28, 2004, please consider the following amendments and remarks made in a good faith attempt to move prosecution of this application forward to a proper allowance of the claims.

Please note that any and all fees associated with this response, including any applicable extension fees under 37 C.F.R. 1.136, and any fees for newly presented claims, may be charged to the deposit account of the undersigned, Account No. **50-0894**.

Applicant here requests such extensions under 37 C.F.R. 1.136 as may be necessary to render this response timely.

### **Drawings**

Please note that formal drawings are submitted herewith.

### **Claim Objections**

Claim 1 currently stands objected to as line 8 includes the limitation "primary receiver unit being fused" without describing the primary receive unit is fused to the secondary containment unit as later described in lines 13 and 14 as a "line of fusion" between the units; in line 9 the limitation "the line of fusion" has insufficient antecedent basis in the claim.

Please note that claim 1 has been amended to provide sufficient description with respect to the fused relationship between the primary receiver unit and the secondary

containment unit; and has been further amended to provide antecedent basis for the " line of fusion."

### **Claim Rejections**

Claim 1 currently stands rejected under 35 U.S.C. 102(e) in view of U.S. Patent No. 6,679,867 issued to Minske ("Minske"). Note that claim 1 has been amended to further distinguish Applicant's invention from that which is disclosed in the Minske document. Also, claims 2-4 have been newly added. Amendments to claim 1 and newly added claims 2-4 do not contain new matter; antecedent basis for each of which is provided in the "detailed description of the preferred embodiment" and figures 1 & 2 of the present application.

In view of the present amendments, Applicant respectfully submits that such rejection is inappropriate. That is, Applicant cannot find in the Minske document a male urinary system having an angle of between 50 and 58 degrees between the juxtaposition of the pubic area and urinary device and the secondary containment area, as claimed by Applicant. In Minke, Applicant cannot find a male urinary system where the primary receiver unit has a curvature of between 32 and 40 degrees as claimed by Applicant. "Anticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 193 (Fed. Cir. 1983)). (emphasis added).

Applicant's invention, as claimed, has a primary receiving unit requiring a curvature of between 32 and 40 degrees. Also, Applicant's claimed invention has an angle of between 50-58 degrees between the pubic area and secondary containment unit. These features provide for exceptional benefit with respect to drainage in so much as the combination of such provides for a total of 80-90 degrees curvature between the pubic area and direction of urine flow. The secondary receiving unit has no deviation in angle or curve except for 5 degrees at the distal end of the device. This combination of specific angles and curves provides for excellent drainage without compromising the placement of the device against the pubic area. Moreover, Applicant's invention has a well defined top side and bottom side by virtue of the specific angles and curves necessary for excellent drainage. The device has an orientation ridge at the "top" referring to the position for appropriate positioning of the device. This allows a visually impaired person or a person who has a distended abdomen and cannot visualize his penis to position the device correctly.

Further, a Prima Facie case of anticipation has not been established as a snap fit lid or a secondary spill proof mechanism as claimed by Applicant, is not found in the Minke document. "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236; 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP 2131.

Minke fails to disclose a device having a snap fit lid that is configured to provide the most effective spill-free use possible. As claimed, Applicant's invention specifically recites a male urinary system having a snap fit lid which closes and substantially seals the

penis/urinary collection interface unit between uses. This feature, as claimed, lends increased flexibility to Applicant's invention as it can be transported with less risk of a spill. This feature is simply not available with devices known in the art, including that which is disclosed in the Minske document.

Applicant's claimed invention has a second spill-proof feature in which the opening that receives the penis has an elevated edge, about the point of juxtaposition of the pubic area, in relation to the penis when the device is in place. This edge is configured to the height of the inner curve to facilitate prevention of even minor backflow. When small amounts of urine are being discharged, the spill proof edge is just above the level of the curve of the primary receiving unit when it is in position. This prevents the urine from spilling back out of the device. The urine reaches the spill point at the curve before it reaches the edge of the spill proof feature causing drainage into the unit instead of drainage back on to the user. This feature, or one even similar to it, is simply not disclosed in the Minske document. Antecedent basis for this newly claimed feature is best provided by reference to figure 1.

Applicant's claimed invention, by virtue of the specific angles and curvatures incorporated throughout the device, allows for benefits simply not available with that which is disclosed in the Minske document. Moreover, specifically claimed features such as a snap fit lid and a secondary spill proof mechanism are simply not available with inventions known in the art, particularly that of the Minske document.